

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

CONAIR CORPORATION,

Plaintiff,

v.

Unknown Person(s) or Entity(ies) d/b/a
Barberium's,

Defendant.

CASE No. 21 cv 1663

The Hon. Sara L. Ellis

JURY TRIAL DEMANDED

**MOTION TO EXTEND TRO FOR 14 DAYS AND
FOR LEAVE TO SERVE BARBERIUMS
AT THE NEWLY-PROVIDED E-MAIL ADDRESS**

Plaintiff Conair Corporation hereby moves this Court for an order extending the duration of the temporary restraining order entered on March 30, 2021 (ECF No. 12), for an additional 14 days and in support of its motion, states as follows:

1. This Court granted Conair's motion for a temporary restraining order (ECF Nos. 4 and 5) on March 30, 2021 (ECF No. 12).

2. This Court entered the TRO on the following day, April 1, 2021 (ECF No. 13).

3. Rule 65(b)(2) pertaining to the duration of TRO's states as follows:

The order expires at the time after entry—not to exceed 14 days—that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record.

Fed. R. Civ. P. 65.

GOOD CAUSE EXISTS FOR EXTENDING THE TRO

4. The initial 14-day period for the TRO will expire soon (on April 15, 2021). Rule 65 permits extension of such an order upon showing of good cause. As explained below, good cause does exist.

Defendant Barberium's Is Attempting to Evade Service

5. Counsel for Conair served a copy of this Court's order granting Conair's TRO motion on Defendant Barberium's *via* e-mail (the same e-mail address that it requested leave from this Court to serve the summons and complaint, which leave this Court granted) at info@barberiums.com on April 1, 2021. The following morning, Counsel for Conair sent a copy of the TRO signed by this Court. Later that same day, Conair's counsel sent each docket entry in this case to that same email address, including a copy of the Complaint. Nothing in response to sending these messages indicates that they were not received at the above address.

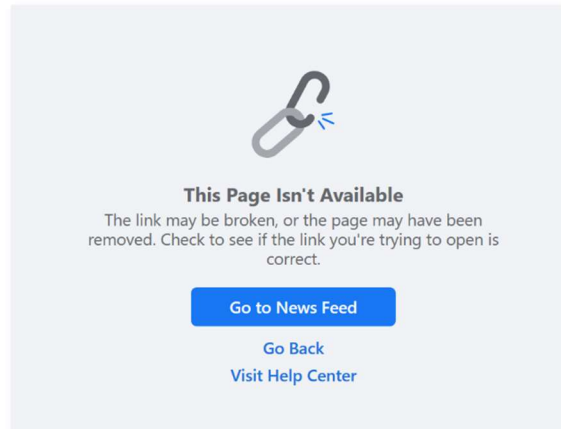
6. Later that evening, however, when counsel for Conair attempted to serve Barberiums with summons, the message could not be sent. This email address no longer appears to be in service. Conair's attempts to serve Defendant Barberium's *via* e-mail as this Court granted leave to do, failed with a "MAILER-DAEMON" undeliverable error. Subsequent attempts to notify the Defendant through that e-mail address (as recently as today) have returned similar errors and have failed to deliver email.

7. Also at least as early as April 2, 2021, the Barberium's web site, Facebook, and Instagram pages have been shut down.

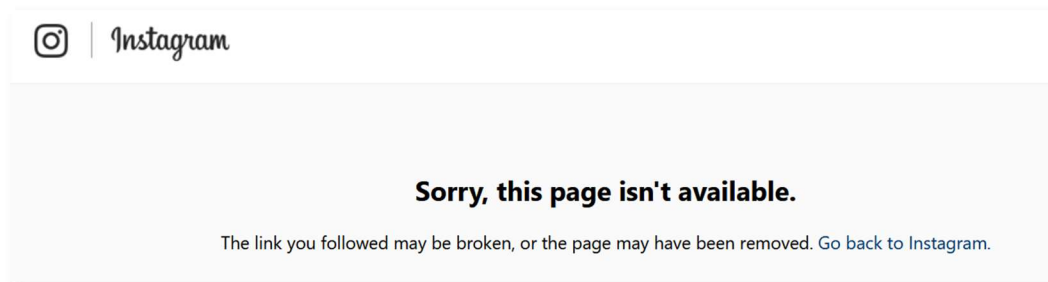
8. Barberium's efforts at secrecy and maintaining anonymity through suspect means appears to pre-date even this lawsuit. As part of this Court's TRO, Barberium's e-commerce platform partner, Shopify was ordered to provide identifying information about Barberium's, which it did recently on April 8, 2021. But Barberium's appears to have provided a bogus physical address to its e-commerce partner, Shopify to conceal its true identity. The address provided by Shopify (and presumably the

address provided by Barberium's) does not exist – it is, roughly speaking,¹ a parking lot between a pizza restaurant and a gas station in the near northwest suburbs of Chicago.

9. Additionally, other avenues of contact for Barberium's – namely, Facebook and Instagram – have also been shut down. As of April 2, 2021, <https://www.facebook.com/barberiums/> returns the message:



10. Similarly, the URL https://www.instagram.com/barberiums_official/?hl=en resolves to the following page:



¹ Shopify provided this information “confidentially” to Conair and requested a right to challenge any placement of it in the public record, despite there being no protective order entered in this case. Nonetheless, as a courtesy to Shopify, Conair has not specifically identified the information provided on the public docket. Without any protective order, however, Conair is unable to file such information under seal, but is prepared to provide any information to this Court as it deems necessary.

11. Shopify did provide one additional piece of identifying information by way of a gmail address. It is not clear at this point whether this is a viable method of contact or whether it has been shut down as well.

12. Good cause exists to extend the duration of the TRO so that Conair can file appropriate motions to deem service effective as of the April 1, 2021, date that Conair provided the complaint and all initiating documents to the info@barberiums.com address and move for a default and/or preliminary and permanent injunctive relief. Additionally, Conair would seek to serve Barberiums with all pertinent filings at the e-mail address provided by Shopify (a “gmail” address) with the summons and complaint and motions for preliminary and/or permanent injunctive relief with the Court’s leave to do so.

13. Without such an extension, there exists a risk that Barberium’s evasive maneuvers could be rewarded and it could be provided a window of opportunity to reboot its online store in some form and continue to sell – perhaps at deeply-discounted prices – the infringing goods that lead to this lawsuit in the first instance.

CONCLUSION

Therefore, Conair respectfully requests that this Court grant its motion to extend the TRO for an additional 14 days (until April 29, 2021) by which time Conair will be able to file the necessary motions for entry of preliminary and/or permanent injunctive relief with notice to Barberium's or with leave of this Court to deem prior service of documents to be effective as of the date of such service or leave to serve Barberium's at the newly-provided e-mail address.

Dated: April 13, 2021

Respectfully submitted,

/s/ Michael La Porte

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**Attorneys for Plaintiff,
Conair Corporation**

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2021, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to all counsel of record. Additionally, I served and/or attempted to serve copies of this motion on info@barberiums.com and on the confidentially-provided e-mail address from Shopify.com

/s/ Michael La Porte

Michael R. La Porte